

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

INDUSTRIAL SUPPLIES AND
DISTRIBUTORS TRADE

AS APPROVED ON OCTOBER 23, 1933
BY
PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

UNIV. OF FL. LIB.
DOCUMENTS DEPT.

JAN 0 1934

U.S. DEPOSITORY

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1801 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 2213 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: Room 405, 421 West Market Street.
Memphis, Tenn.: 266 South Water Street.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse.
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: Room 812, 20 South Fifteenth Street.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 1406 Vance Building.

(II)



EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE INDUSTRIAL SUPPLIES AND MACHINERY DISTRIBUTORS' TRADE

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Industrial Supplies and Machinery Distributors' Trade, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition, together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations, and findings of the Administrator and do order that the said Code of Fair Competition be and is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
October 23, 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

(III)

OCTOBER 12, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Industrial Supplies and Machinery Distributors' Trade in the United States, conducted in Washington on September 27, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

A maximum work week of 40 hours and not to exceed more than 8 hours per day is adopted under this Code with provision for 48 hours' maximum during three weeks of any six months' period to be averaged down to 40 hours per week.

Executives receiving more than \$35.00 per week, watchmen, and outside salesmen are excepted from the schedule of minimum hours, while service employees, those engaged in plant maintenance, and stock-room employees may work a maximum of 48 hours with payment of time and one third for all hours worked in excess of 40 hours.

No person under 16 years of age shall be employed and none under 18 employed in any hazardous occupation.

The minimum rates of pay shall be \$15.00 per week in cities and trade areas of 500,000 population or more, \$14.50 per week in cities and trade areas of 250,000 to 500,000 population, and \$14.00 if the population is over 2,500 and not more than 250,000. In towns of not more than 2,500, all wages of such employees shall be increased by not less than 20%, provided that this shall not require wages in excess of \$12.00 per week.

Part-time employees in each area shall receive a minimum hourly wage in relation to 40 hours and the minimum weekly rate.

Learners and junior employees shall receive not less than \$2.00 per week less than the minimum rate and not more than 5% of the total number of employees can be so classified.

ECONOMIC EFFECT OF THE CODE

The 40-hour week stipulated in the Code is a reduction from an average of more than 48 hours per week, and the trade estimates that under the provision of the Code the number of employees will be increased 20 percent.

The minimum wage rates specified represent an increase of from 20 to 100 percent over the wages prevailing in the same classifications before the adoption of the President's Re-employment Agreement.

The importance of the trade is evidenced by the fact that its members normally employ 27,000, have a capital investment of

\$172,000,000, and have normal average annual sales of \$335,000,000.

This trade distributes machinery and industrial supplies—to railroads, ships, mines, mills, factories, and contractors. It is nationwide, its customers including all users of industrial supplies and machinery.

The combination of two sectional divisions of trade under one Code is extremely gratifying. Each division will be properly represented in the work of administration by regional committees, acting under the supervision of the Code Authority. These committees will not only relieve the Code Authority of local details of administration, but are truly representative of the regions from which they are elected.

FINDINGS

The Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Industrial Supplies and Machinery Distributors' Trade; and that

(c) The Code as recommended is not designated to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be immediately adopted.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE INDUSTRIAL SUPPLIES AND MACHINERY DISTRIBUTORS' TRADE

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Industrial Supplies and Machinery Distributors' Trade, and upon approval by the President, shall be the standard of fair competition for this trade.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Industrial Supplies and Machinery Distributors' Trade", or "trade", as used herein, includes the warehousing, selling, distributing, and/or servicing in conjunction therewith of tools, equipment, and supplies for railroads, ships, boats, mines, mills, factories, and/or other industrial users.

SEC. 2. A Distributor of Industrial Supplies and Machinery shall be defined as one who sells to industrial consumers and other trade outlets; and who has at least the following facilities and services:

- (a) An adequate investment,
- (b) Storage space sufficient to carry the stock required in Paragraph (e) herein and necessary facilities for operating same,
- (c) A proper accounting system, sales, office, and delivery service,
- (d) Regularly maintains salesmen in his territory to demonstrate and sell the lines handled,
- (e) Carries a sufficiently complete purchased stock of industrial tools, equipment, and supplies to meet normal requirements in his territory,
- (f) Assumes the credit risk of his sales.

Nothing in this Section 2, Article II, however, shall be construed to exclude in any way as a member of the trade and/or from the operation of this Code, anyone who sells tools, equipment, and supplies to the industrial users described in Section 1, Article II hereof except with the approval of such exclusion by the Administrator.

SEC. 3. The term "employee" as used herein includes any person engaged in any phase of the trade in any capacity in the nature of employee, irrespective of the method of payment of his compensation.

SEC. 4. The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged.

SEC. 5. The term "member of the trade" as used herein includes any employer who shall be subject to this Code.

SEC. 6. The term "member of the Code" as used herein includes any member of the trade who shall expressly signify assent to this Code.

SEC. 7. The term "effective date" as used herein means the tenth day after this Code shall have been approved by the President of the United States.

SEC. 8. The term "learner" as used herein is a person having no previous experience in the trade, and whose employment as such shall not exceed 6 months.

SEC. 9. The term "act" as used herein is Title I of the National Industrial Recovery Act.

SEC. 10. The term "Administrator" as used herein is the National Recovery Administrator.

SEC. 11. Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS

On and after effective date of this Code.

SECTION 1. No employee in the Trade, except as hereinafter provided, shall be employed for more than eight (8) hours in any one day nor for more than forty (40) hours in any one week, nor for more than six (6) days in any one week; provided, however, that during inventory and other peak periods, such employees may be permitted to work not more than forty-eight (48) hours in any one week, or not more than three (3) weeks in any six (6) months period; provided, further, that the average shall not be more than forty (40) hours per week in any six (6) months period.

SEC. 2. The limitation of Section 1 of this Article III as to hours of work shall not apply to persons in a managerial, executive, or supervisory capacity, who now receive more than \$35.00 per week, or to watchmen and outside salesmen.

SEC. 3. The limitation of Section 1 of the Article III as to hours of work shall not apply to persons engaged in outside delivery service, plant maintenance, outside repair, and/or installation service, nor to persons engaged in stock receiving and shipping service, who shall be permitted to work not more than forty-eight (48) hours in any one week, provided time and one third is paid for all hours worked in excess of forty (40) hours per week.

SEC. 4. No person under the age of sixteen (16) years shall be employed by any member of the Trade, and no person under the age of eighteen (18) years shall be employed in any hazardous occupation.

SEC. 5. The total number of hours which shall be worked by any employee whether with one or more employers, shall not exceed the maximum as prescribed herein.

ARTICLE IV—WAGES

On and after effective date of this Code.

SECTION 1. (a) The minimum rates of pay except as prescribed in Section 2 of this Article IV shall be as follows in cities of the population listed below and their immediate trade areas:

Over 500,000 population not less than \$15.00 per week;
250,000 to 500,000 population not less than \$14.50 per week;
2,500 to 250,000 population not less than \$14.00 per week.

In towns of less than 2,500 population, all wages of such employees shall be increased by not less than 20%, provided that this shall not require wages in excess of \$12.00 per week.

SEC. 2. No part time or casual employee shall be paid at a rate per hour less than the minimum rates prescribed in Section 1 of this Article IV, which minimum rates are based on a forty (40) hour week, applying to the area in which the employer is located.

SEC. 3. Learners may be paid at the rate of \$2.00 less per week than the minimum rates prescribed in Section 1 of this Article IV, provided that in no case shall the minimum be less than \$12.00 per week.

SEC. 4. Junior employees between the ages of sixteen (16) and eighteen (18) years, inclusive, with less than six (6) months' experience in the trade, may be paid at a rate of \$2.00 less per week than the minimum rates prescribed in Section 1 of this Article IV, provided that in no case shall the minimum be less than \$10.00 per week.

SEC. 5. Such learners and junior employees mentioned in Sections 3 and 4 of this Article IV employed by any one employer shall not exceed in number more than five (5) percent of the total number of employees of such employer, provided that each employer may have at least one learner or junior employee.

SEC. 6. No employee now receiving compensation at a rate in excess of the minimum herein prescribed shall have his compensation reduced on account of any reduction in the weekly hours of employment to conform with the requirements of Article III.

SEC. 7. The hourly wage rate or salary of all employees receiving more than the minimum rate or salary herein prescribed shall be equitably adjusted, if such adjustments have not already been made.

SEC. 8. No distinction in rates shall be made between male and female employees, where the same class of work is performed, regardless of whether compensation is calculated on an hourly, weekly, or monthly basis.

SEC. 9. No employee shall be included in one of the classifications excepted from the provisions of this Code unless the identical functions were identically classified on June 16, 1933.

SEC. 10. No person who has worked as a learner for one member of the trade for the period of time prescribed under the term "learner" in Article II may thereafter be classified as a learner.

SEC. 11. No employer shall reduce the compensation for employment now in excess of the minimum wages herein prescribed, notwithstanding that the hours worked in such employment may be hereby reduced.

SEC. 12. The provisions for a minimum wage in this Code establish a guaranteed rate of pay per hour or per week of employment, regardless of whether the employees' compensation is calculated on an hourly, weekly or monthly basis.

ARTICLE V—ADMINISTRATION

SECTION 1. To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code.

(a) The Code Authority shall consist of eight members of the Trade (no two of whom shall represent the same member) and one or more appointees of the Administrator if he so desires. The latter shall have no vote. The members of the Code Authority shall be elected by the members of the Trade, each member of the Trade to have only one vote. Such election shall be by mail ballots, which ballots shall be sent to all members of the Trade. The Code Authority shall complete its own organization by election of officers.

(b) Any member of the Trade is eligible for membership in the Code and there shall be no inequitable restrictions on such membership. Any such member may participate in the preparation and any revision of and additions or supplements to this Code by accepting his proper pro rata share of the cost and responsibility of creating and administering it, either by becoming a member of the National Supply and Machinery Distributors' Association or the Southern Supply Machine Distributors' Association or by paying to the Code Authority his pro rata share of the costs, based on the dollar volume of sales by the entire trade. There shall be no initiation fee for members of the Trade who participate only in the Code and do not become members of one of the said Associations.

SEC. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to review by the Administrator:

(a) To collect from persons in the Trade all data, reports, and statistics when and as required by the President and/or the Administrator and/or their agent or agents. Such information shall be confidential. Each member shall send his data to a neutral agency designated by the Code Authority. This neutral agency shall assemble all such data and present it to the Code Authority without the names of the members of the Trade submitting such data. This data with names shall be available to the Administrator, if required by him. Reports submitted by the Code Authority to the President and/or the Administrator and/or his or their agent or agents shall be in the form prescribed and/or approved by him. Nothing in this paragraph shall be construed as limiting the powers conferred on the President and/or the Administrator by Title I of the Act.

(b) In addition to information required to be submitted to the Code Authority, there shall be furnished to Government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the National Industrial Recovery Act.

(c) To represent the Trade in conferring with the President or his agents with respect to the administration of this Code and in respect of the Act and any regulations issued thereunder.

(d) To arrange for a Regional Committee in each territorial area to assist the Code Authority in administering the code. Each such Regional Committee shall consist of not more than three (3) members of the trade in such area, elected by the members of the trade in such area.

(e) To appoint such agents as it may deem necessary to assist in administering this code.

(f) To hear and investigate complaints and attempt to adjust the same in accordance with law.

(g) To study the trade-practice provisions of Article VI and the operation thereof, and make such recommendation from time to time to the Administrator as it deems desirable for modification of or addition thereto, which, upon the approval of the President, after such hearing as he may prescribe, shall become a part of this Code and have full force and effect as provisions hereof.

(h) To make rules and regulations necessary for the administration of this Code, subject to the approval of the Administrator.

(i) To report to the Administrator on behalf of the trade on the subject of imported articles competing with products distributed by the trade under provisions of Section 3 (a) of the Act.

ARTICLE VI—UNFAIR COMPETITION

The following practices are hereby declared to be unfair methods of competition within the meaning of the Act:

SECTION 1. Sales below the individual's cost. Cost is to be determined by a standard cost-accounting system to be set up by the Code Authority and subject to the approval of the Administrator. It is expressly understood that this shall not apply to items on which the published or suggested prices of manufacturers do not provide a margin sufficient to cover the individual's cost as determined by the above-mentioned standard cost-accounting system.

SEC. 2. Where in any particular territory, members of the Trade desire to file price lists with such agency as may be approved by the Code Authority, it is a violation of the Code for such members to sell below their individually filed schedules covering prices, terms, and conditions. Such schedules are to be subject to change at any time by filing a new schedule, which shall be effective five (5) days after filing.

SEC. 3. The payment or allowance of secret rebates, refunds, discounts, commissions, or other special considerations or allowances, including donations, gifts, or premiums of any nature whatsoever, to any firm or individual.

SEC. 4. The issuance of false invoices or other documents covering sales in which the prices, terms, discounts, allowances, or other facts relating to the transaction are in any manner falsely stated.

SEC. 5. Discrimination in prices between purchasers of the same class under similar conditions except for differences in the grade, quality, or quantity purchased.

SEC. 6. Delivering merchandise which fails to conform exactly to the samples or specifications on which prices are quoted.

SEC. 7. Agreeing to conditions or terms of sale, or making promises of any nature which manifestly cannot be fulfilled.

SEC. 8. Accepting orders for future delivery subject to cancellation.

SEC. 9. Inducing or attempting to induce the cancellation of orders or the breach of contracts existing between competitors and their customers.

SEC. 10. Misrepresentation of facts about a competitor or his product.

SEC. 11. Quoting a total price on any schedule of industrial supplies and machinery which does not show unit prices and making any addition or deduction on any other basis than the unit price shown.

SEC. 12. It is an uneconomical and an unfair practice for distributors to ship any goods on consignment, except products of manufacturers whose general plan of distribution is by consignment and not by sale for resale.

ARTICLE VII—SCOPE OF CODE

In the absence of any contrary provision herein concerning such trade practice, each member of the trade shall in dealing with a product manufactured by a member of an industry operating under another Code of Fair Competition, conduct such dealing in conformity with any pertinent trade-practice provisions in such other Code.

ARTICLE VIII—GENERAL

SECTION 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

SEC. 2. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

SEC. 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 4. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

SEC. 5. Within each State, members of the trade shall comply with any laws of such State imposing more stringent requirements regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than under this Code.

SEC. 6. If any employer in this trade is also an employer in any other trade or industry the provisions of this Code shall apply and affect only that part of the business of such employer which is a part of the trade covered by this Code.

SEC. 7. Where the costs of executing contracts entered into this trade are increased as a result of the enactment of the National Industrial Recovery Act and/or by the provisions of this Code, or where any contract entered into by an employer subject to this Code, is inconsistent with the provisions thereof, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts be arrived at by arbitral proceedings or otherwise, and the Code Authority is constituted an agency to assist, with the consent of the buyer in effecting such adjustments. Further, that where

the performance of orders accepted prior to the effective date of this Code is delayed or prolonged as a result of the operation of provisions of this Code, appropriate additional time should be allowed for the completion of such orders.

SEC. 8. Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in the circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code or additional codes will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices, and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions thereof.

SEC. 9. Prior to December 31, 1933, no member of the trade shall increase the sale price of his goods sold after the effective date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in manufacturing, distribution, and material costs, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act and/or this Code since July 1, 1933, and in setting such price increases full weight shall be given to probable increases in sales volume. In case a member of the trade on July 1, 1933, was selling his product at less than actual cost, he may take his cost price on that date as the base for such increase in selling price as is permitted by this section.

SEC. 10. No provision in this Code shall be interpreted or applied in such manner as to—

- (a) Promote monopolies or monopolistic practices;
- (b) Permit or encourage unfair competition;
- (c) Eliminate or oppress small enterprises; or
- (d) Discriminate against small enterprises.

ARTICLE IX

This Code shall be in effect beginning on the tenth day after its approval by the President and shall be binding upon all persons engaged in the trade.



UNIVERSITY OF FLORIDA



3 1262 08584 2200